

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MILBURN HENSON :
 :
v. : Civil No. WMN-06-337
 :
GREENMOUNT AVENUE PARTNERSHIP :

MEMORANDUM

This action was filed in the Circuit Court for Baltimore City on or about December 19, 2005. Plaintiff brought this action pursuant to the access provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12181, et seq., seeking a declaration that the front entrance of a store owned and operated by Defendant created an unlawful architectural barrier. Plaintiff also sought an order requiring Defendant to alter the entrance to make the store readily accessible to and usable by individuals with disabilities. The action was later removed to this Court.

Plaintiff died on March 1, 2006. Because standing in an ADA access case requires a showing of the likelihood that the plaintiff will suffer future discrimination if the requested injunctive relief were not granted, neither Plaintiff's estate nor his survivors would be able to continue to pursue Plaintiff's claim. See Plumley v. Landmark Chevrolet, Inc., 122 F.3d 308, 312 (5th Cir. 1997) (dismissing ADA claim since the plaintiff, having died, did not face a present or future harm and would not

benefit from equitable relief); Blake v. Southcoast Health System, Inc., 145 F. Supp. 2d 126, 131-37 (D. Mass. 2001) (holding that parents and estate of disabled patient who allegedly died as result of discriminatory failure to treat did not have standing to sue health care providers under ADA, as there was no possibility of future harm which could be remedied by injunction). Accordingly, this action must be dismissed.

A separate order will issue.

/s/

William M. Nickerson
Senior United States District Judge

Dated: March 22, 2006